

**United States Extractive Industries Transparency Initiative
Multi-Stakeholder Group Advisory Committee Meeting
December 11-12, 2013**

Summary of Proceedings

U.S. Department of the Interior
Prepared: December 2013

I. Introduction

The U.S. Department of the Interior (DOI) convened the eighth meeting of the U.S. Extractive Industries Transparency Initiative (USEITI) Multi-Stakeholder Group (MSG) Advisory Committee in Washington, DC on December 11 and 12, 2013. The purpose of the meeting was to finalize and approve the Candidacy Application for submittal to the Secretary of the Interior, brainstorm about and discuss the role of the independent administrator that would create the report, and discuss MSG activities in 2014. Presentations and discussions during the two days of the meeting included the following:

- **Welcoming remarks** by Greg Gould, DOI
- **USEITI Multi-Stakeholder Group Business** by Greg Gould, DOI
- **Candidacy Application Final Review and Approval** by Greg Gould and Karen Senhadji, DOI
- **Submittal of Draft Application Next Steps** by Marti Flachs, US State Department
- **Update from the Outreach Subcommittee and Discussion** by Danielle Brian, Project on Government Oversight and Advisory Committee Co-Chair
- **Introduction of the Visiting Libyan Delegation** by Marti Flachs, US State Department
- **Report Out – EITI Seminar in Columbia** by Greg Gould, DOI
- **Brainstorming the Role of Reconciler [Independent Administrator]¹ and the Creation of the Report**; facilitated to Pat Field, Consensus Building Institute
- **Potential Timeline for, and Transitioning to, 2014** by Greg Gould and Paul Mussenden, DOI

II. Summary of Action Items and Decisions

Action Items

- DOI will share its press release announcing finalization and approval of the candidacy application with the other MSG members.
- State will seek to provide the MSG with a list of contractors with whom various EITI countries have worked.
- Mr. Goldwyn will share the five-criteria matrix used by the Nigerian MSG for selecting its administrator with the US MSG.

¹ While this role was initially titled “reconciler,” the MSG adopted the term “independent administrator” to reflect the broader responsibilities, beyond auditing, that this entity is expected to fulfill for USEITI. The term independent administrator will generally be used throughout this meeting summary.

- DOI will consult with procurement staff regarding the process of contracting with an independent administrator given feedback during brainstorming.
- Mr. John Harrington to check in with American Petroleum Institute members about the urgency of resolving the reporting calendar issues for the first report.
- Ms. Susan Ginsberg to check in with Independent Petroleum Association of America members about the urgency of resolving the reporting calendar issue.
- Sector co-chairs work within their sectors to decide on supplementing staffing of the Application Subcommittee.
- Outreach Subcommittee will explore effective outreach strategies to tribes to supplement DOI's Dear Tribal Leader letters.
- Outreach Subcommittee will consider how one might reach out to companies under the first-year reporting materiality threshold who are not members of API or IPAA.
- Current Application Subcommittee will meet in early January 2014 to advance work on approaches to selecting independent administrator.
- All sectors will review all MSG meeting summaries from May, June, July, September, November, and December and the sector-chairs will compile sector comments by 1 February 2014.

Decisions

- The MSG approved a change to the April 2013 MSG meeting summary to include a note stating that the meeting was held via teleconference.
- The MSG approved the draft USEITI candidacy application unanimously and agreed to forward it to the Secretary of the Interior.
- The MSG approved the work of the Communications and Outreach Subcommittee, including the Outreach Implementation Plan.
- The MSG tasked the Application Subcommittee to undertake work on developing a draft Terms of Reference, outlining the first USEITI report, considering next steps for procurement for an independent administrator, and considering needed timeline for report-year question at least until the US candidacy application is approved.

III. Presentations and Key Discussion Points

Mr. Greg Gould, US Department of the Interior, opened the meeting and thanked the MSG's co-chairs, Ms. Danielle Brian, Project on Government Oversight, and Ms. Veronika Kohler, National Mining Association, the MSG Subcommittee's members, and DOI staff who helped prepare for this meeting. He noted that Ms. Rhea Suh, Interior Assistant Secretary and Chair/Designated Federal Officer for the Multi-Stakeholder Group Advisory Committee, was moving to a new position in the Department and would not be joining the meeting. He noted that Mr. Paul Mussenden, US Department of the Interior would be joining the meeting at a later time.

Mr. Gould, Ms. Brian, and Ms. Kohler expressed appreciation for the hard work that MSG members had put in in recent weeks and expressed enthusiasm for the likely approval of the candidacy application by the MSG later in the day as well as for the future work of the MSG.

Mr. Gould introduced Mr. Patrick Field from the Consensus Building Institute (CBI) as the facilitator for the meeting. Mr. Field reviewed the agenda and ground rules for the meeting and

noted that Mr. Tushar Kansal, from the Consensus Building Institute (CBI), would be taking notes and providing a summary of the meeting. Mr. Field asked the meeting participants to introduce themselves, which they did. A full attendance list is provided at the end of this meeting summary.

A) US EITI MSG Business

Mr. Gould reported that the Secretary of the Interior would be signing letters appointing four people to the MSG as either primary or alternate members by the second day of the MSG meeting, December 12 [*these letters of appointment were signed by the Secretary of the Interior on December 11*]. The candidacy application would be updated to reflect the new composition of the MSG. He also reported that the vetting of additional applications to fill vacancies would be delayed until late January due to the government shutdown.

Mr. Gould noted that five draft meeting summaries, from MSG meetings held in May, June, July, September, and November 2013, still need to be approved by the MSG. MSG members discussed the timeframe that they would need for reviewing the draft meeting summaries. MSG members discussed whether the meeting summaries would need to be officially approved by the MSG at the time that the MSG approved the US EITI candidacy application because the meeting summaries are included as links in the application itself. Ms. Marti Flachs, US State Department, clarified that the meeting summaries could remain in draft form at the time when the MSG approves the candidacy application. Review and approval of the five outstanding MSG draft meeting summaries, as well as the December 2013 meeting summary, would occur at the next MSG meeting, scheduled for April 2014. Co-chairs were asked to assemble comments on the meeting summaries and forward to the facilitators by 1 February 2014.

- **The MSG also approved a change to the April 2013 MSG meeting summary to include a note stating that the meeting was held via teleconference.**
- **All sectors will review all MSG meeting summaries from May, June, July, September, November, and December and the sector-chairs will compile sector comments by 1 February 2014.**

B) Candidacy Application Final Review

The MSG turned to consider the USEITI candidacy application.

Summary and consideration of public meetings and comments

Mr. Field reviewed the public outreach process for the USEITI draft candidacy application. He recounted that the following public outreach meetings and *stakeholder outreach meetings* (presented in italics) were held as part of the Public Comment Period:

- New Orleans Public Meeting, Sept 24
- Houston Public Meeting, Sept 24
- San Antonio, *COPAS Meeting*, Sept 26
- Denver Public Meeting, Oct 22
- Denver, *State and Tribal Royalty Audit Committee (STRAC) Meeting*, Oct 23
- Anchorage Public Meeting, Oct 22
- Fairbanks, *Alaska Federation of Natives Presentation*, Oct 24
- Webinar, November 4

- Pittsburgh, November 14

He also noted that the Department of Interior, received 22 unique written comments, 2,584 form letters, 264 additional of the form letters with additional unique comments, for a total of 2,870 written comments. Mr. Field summarized that the comments received were generally supportive of U.S. involvement in the EITI program and that questions and comments were made about a variety of topics, including:

- Purpose and process of US EITI
- Representation and communication with regards to the US EITI MSG
- Scope and materiality of reporting (including unilateral reporting, public narrative, reconciled reporting)
- Reporting structure
- Application revision suggestions.

Details about the public comments received can be found on the USEITI website at the following URL: <http://www.doi.gov/eiti/FACA/outreach.cfm>.

Ms. Brian noted that there is a difference between unilateral disclosure by the federal government and reconciled reporting as part of USEITI and that the public is interested in both of these versions of reporting. She noted that many of the comments were about what members of the public would like to see in the reporting going forward. Mr. Gould agreed that many comments were forward-looking and indicated that DOI would consider those comments as USEITI continues to develop and evolve.

Review of Final Draft Application

Mr. Greg Gould noted that Ms. Kimiko Oliver was acting as the Designated Federal Officer during the morning of December 11 in the absence of Mr. Paul Mussenden due to his attendance at a memorial service for Nelson Mandela.

Mr. Gould reported that the Application Subcommittee had been working hard in recent weeks to finalize the draft candidacy application and had made the following changes to the application: editorial changes such as fixing typos, numbering, etc.; updated Outreach section to reflect the outreach work done around the draft application; updated the Adapted Implementation section; added Annex 4 to summarize meeting minutes and supporting documents; clarified wording throughout the application to make sure that it was clear what “revenues and payments” refers to.

Mr. Aaron Padilla, Chevron Corporation; Ms. Kohler; Mr. Gould, and Mr. Greg Conrad, Interstate Mining Compact Commission; explained that the Application Subcommittee updated the Adapted Implementation section of the draft candidacy application to decrease the likelihood that the EITI International Board would find objection of the US candidacy application. The section was rewritten to shift the justification for adapted implementation from constitutional reasons to practical reasons and to include information about “partial compliance” with subnational reporting, which would be fulfilled through publicly-available data on state websites and sub-national transfers from the federal government to the states.

Mr. Padilla noted that charts referenced in footnotes #4 and #5 of the application were absent from the electronic version of the application, which would need to be addressed. Ms. Kohler

noted that the following text on p. 24 of the application, “Issue a contract with a third-party reconciler to produce the initial USEITI report,” does not specify what years that initial report would cover. She also clarified that the text “Publish/disseminate the initial USEITI Report” on p. 25 of the application is the second report that USEITI would be submitting. Members agreed to discuss these implementation issues later in Day 2

Ms. Brian and Mr. Michael LeVine, Oceana, reported that Mr. Richard Fineberg, Research Associates and an Alternate representative for the civil society sector, had expressed his dissent to approval of the draft candidacy application by the MSG to his sector. Mr. LeVine explained that, while Mr. Fineberg submitted his comments on his own behalf, the civil society sector shares his concerns in a broad sense. Specifically, the civil society sector is concerned that additional resources could and should have been allocated to public involvement, that the scope of USEITI in the future should be expanded to include additional commodities and also the impacts of extractive activity, and that broader disclosures will better meet the objectives of EITI. Mr. LeVine emphasized, however, that the civil society sector supports moving forward with USEITI and supports approving the draft candidacy application.

Ms. Kohler responded that, while she understands the desire of civil society organizations to enhance transparency, the EITI framework is limited in scope, which is what makes it successful. Mr. David Goldwyn, Goldwyn Global Strategies LLC, replied that countries have significant discretion in terms of the scope of EITI implementation and that the EITI framework is not inherently limiting to what the US MSG has currently included in the USEITI candidacy application. He suggested that the process is iterative and that he hopes to see an expansion of scope in the future.

C) Report Out – EITI Seminar in Columbia

Mr. Greg Gould, Department of the Interior, provided a summary of his attendance at an EITI seminar in Colombia. He noted that it was very well attended and that the Colombian MSG is hearing similar types of questions as what the US MSG is hearing and is encountering similar challenges in explaining the importance of EITI to stakeholders. In terms of the benefits of EITI, Mr. Gould related the Colombian conversation on this topic. A Colombian oil industry trade association representative spoke about EITI increasing awareness of the contributions of the extractives industry. A Colombian civil society representative spoke about enhanced understanding of the extractives industry and its role in the economy and relationship to government revenues. A Colombian government representative spoke about the importance of limiting the scope of EITI to revenues as there are a number of other forums to look at environmental and other concerns.

Mr. Gould noted that he also gave a presentation about the progress and process of EITI in the US. He said that he received a lot of questions about the value-add of this effort in the US. He responded that it has been very important in terms of knowledge-transfer and building relationships between different sectors. He responded to questions about the makeup of the MSG by explaining that the US has very diverse representation on the MSG in terms of experience and perspective, but also noted that the MSG tabled the inclusion of timber for later consideration because the MSG does not currently have representation from the timber perspective. Mr. Gould

noted that the people in Columbia were very glad to hear that the US is facing similar challenges as to those they are facing.

Mr. Gould added that Trinidad and Tobago recently created its first EITI report and passed a copy of the report around the table. He said that it might represent a good starting point in terms of thinking about the US report, as it has many graphics and is visually compelling. Mr. Gould noted that he report still might be too extensive as viewed by some. He noted Trinidad said that they might cut their report length in half for their next report. The International Secretariat held up Trinidad's report as an example and it was very well received. In response to a question from Ms. Kohler, Mr. Gould explained that he believed Deloitte, or a large firm like that created the entire report, and this one-stop-shop approach was well received by the International Secretariat. In response to a question from Ms. Brian, Mr. Gould explained that the International Secretariat suggested highlighting the number of jobs created by industry. Members did note the scale of the data in the report vis a vis the U.S. is quite different in diversity and scale of extractives.

Ms. Brian noted that President Obama announced that the administration is looking to include timber in the next round of USEITI reporting.

D) Candidacy Application Approval

Mr. Field reviewed various procedural rules of the MSG, including rules about quorum, consensus, the advisory nature of the MSG's work, and guidelines for public statements once the MSG takes a decision. Mr. Field noted that under the MSG's terms of reference, members offer their dissent, and alternates only do so, if sufficient members are not present. The approved candidacy application can be found at the following URL:

http://www.doi.gov/eiti/FACA/upload/USEITI-MSG-Approved-Application_12-12-13.pdf.

After an opportunity for any public comment during the meeting itself and via teleconference and WebEx (there was none), the MSG moved to act upon the draft application. Greg Gould introduced Karen Senhadji and noted for this section of the agenda, she was acting on behalf of the Assistant Secretary and as Acting Designated Federal Office (DFO). Karen Senhadji asked if there was any dissent from any of the sectors or individual Members of the MSG. All MSG members present from all sectors noted their consent to approve the application as a unanimous recommendation to the Secretary of the Interior, who on behalf of the President of the United States, will forward the application to the International EITI Secretariat by 31 December 2013.

➤ **Decision: The MSG approved the draft USEITI candidacy application unanimously and agreed to forward it to the Secretary of the Interior.**

A number of individuals, including Mr. Gould; Ms. Brian; Ms. Kohler; Ms. Karen Senhadji, and Mr. Robert Cekuta, US State Department; applauded the MSG members, their organizations, and supporting staff from those organizations for the hard work that they put into the process and for successfully approving a candidacy application.

Mr. Gould explained that the Department of the Interior would review the text of the application one last time, only to copy edit, and would then submit the application to the Secretary of the

Interior with the MSG's recommendation for adoption. He added that the application would be posted on the USEITI website by December 18 along with a press release, which DOI would also share with the other MSG members.

- **Action Item: DOI will share its press release announcing finalization and approval of the candidacy application with the other MSG members.**

E) Submittal of Draft Application Next Steps

Ms. Marti Flachs, US State Department, presented information about the process that the USEITI application would undergo during its review by the International EITI Board. She noted that the International EITI Board mirrors the makeup of the US EITI MSG in terms of sectoral representation. Ms. Flachs reviewed the following, anticipated timeline for review of the US application:

- The International Secretariat analyzes the application and makes a recommendation to the committees.
- The Implementation Committee considers the request for adapted implementation (Jan 30-31; Feb 27).
- The Outreach & Candidature Committee reviews the entire application including the Implementation Committee's recommendation (TBD).
- The full International EITI Board reviews the recommendations from committees and takes the decision on candidacy (March 18-19).

Ms. Flachs also noted that the Implementation Committee will have a meeting in Washington DC on January 30-31, 2014, which would be an opportunity for USEITI MSG members to interact with them. She expressed confidence that the US application would be forwarded by the International Secretariat and the two Committees to the International EITI Board for their review in March 2014.

Ms. Flachs also reviewed the membership of the two Committees, highlighting their sectoral representation and noting the presence of Mr. Robert Cekuta, US State Department, on both Committees (although Mr. Cekuta would recuse himself from consideration of the US application given his role). Finally, Ms. Flachs reviewed outreach strategies and suggested appropriate communications for US MSG members to members of the International Board so all understand the U.S. application. Please see the slides from Ms. Flachs presentation for additional detail at the following URL: <http://www.doi.gov/eiti/FACA/upload/USEITI-Application-Review-Process.pdf>.

MSG members had the following questions and comments in response to Ms. Flachs' presentation (*responses from Ms. Flachs are indicated in italics*):

- Responding to the talking points suggested by Ms. Flachs, Ms. Brian noted that the public outreach conducted by the MSG does not seem "vast," considering the limited public attendance at the public outreach sessions. *Ms. Flachs responded that the US's outreach effort at this early point in the candidacy process was unprecedented, which is worth recognizing, even though it may not have reached the desired level of U.S. expectations for public comment.*

- Mr. Aaron Padilla noted current International Board desires around making sure that EITI is implemented rigorously. He urged the MSG to develop an outreach strategy to ensure that the US application is well understood and communicated effectively to the Board. *Ms. Flachs agreed with the importance of outreach.*
- Ms. Brian asked whether the MSG should reach out to both the Implementation Committee and Outreach & Candidature Committee simultaneously to ensure understanding of the U.S. application. *Ms. Flachs responded that, while the Implementation Committee is supposed to review the application first, in practice it probably makes sense to reach out to both Committees at the same time.*
- Mr. Goldwyn inquired as to whether it would make sense to reach out to the embassies of countries that have already been through the EITI candidacy process. *Ms. Flachs responded that this depends on the country, because in some countries the MSG representation is somewhat separate from normal government channels. The State Department would be able to advise further about specific countries communication to ensure understanding of the U.S. application.*

F) Update from the Outreach Subcommittee and Discussion

Ms. Danielle Brian, Project on Government Oversight, provided an update on the activities of the Outreach Committee. She recounted that the Outreach Subcommittee has put together the first draft of an outreach plan and that, as part of outreach, MSG members will be communicating not only with their own sectors and with the general public, but also with the EITI International Board. She added that it is the MSG's job not only to create opportunities for people to come to the MSG, but also for MSG members to go out to people to spread the word about EITI. Ms. Brian added that the outreach plan includes a copy of a briefing application for congressional staff and that, for the particularly important Congressional offices, members would be briefed directly. Mr. Greg Conrad, Interstate Mining Compact Commission, added that the MSG would work with the DOI Congressional Affairs Office, and maybe also with the analogous offices at the Departments of State and Treasury, to coordinate outreach activities to Congressional offices. The Subcommittee on Outreach and Communications' "Outreach Implementation Plan" can be found at the following URL: <http://www.doi.gov/eiti/FACA/upload/USEITI-Outreach-Plan-Dec10.pdf>.

MSG members had the following questions and comments in response to Ms. Brian's and Mr. Conrad's comments (*responses from Ms. Brian and Mr. Gould are indicated in italics*):

- Mr. Padilla and Mr. Conrad requested that the Outreach Subcommittee provide advance notice of outreach opportunities, particularly on Capital Hill, due to the advance coordination that would be required for their organizations and their sectors. *Ms. Brian responded that the Subcommittee would inform the MSG at each meeting about planned briefings and would report on briefings that had taken place. In addition, she explained that the Outreach Subcommittee is proposing the following policy for adoption by the MSG: while it would be preferable for members of all three sectors to be present at any outreach events, it would not be required. However, any one sector can say that a meeting with a given person or office should not go forward, if someone from that sector cannot participate.*
- Mr. Mike Flannigan, Peabody Energy, inquired as to when the Congressional briefings would begin. *Ms. Brian and Mr. Gould explained that, under FACA, the Subcommittee's*

work and plan need to be officially approved by the MSG before outreach efforts can begin. Ms. Veronica Slajer, North Star Group, and Ms. Betsy Taylor, Virginia Polytechnic Institute and State University, are spearheading the creation of the initial Congressional outreach list that will then be reviewed and edited by the MSG.

- Ms. Brian and Ms. Kohler stated the MSG members play a dual role in representing the MSG, as a whole, and in representing their own organizations. In this outreach process, people should be speaking from a common script, as we did for the public listening sessions.

➤ **Decision: The MSG approved the work of the Communications and Outreach Subcommittee, including the Outreach Implementation Plan.**

G) Summary of Day 1

At the end of Day 1, Paul Mussenden, now acting as Designated Federal Officer upon his return from other obligations, summarized the day and confirmed two decisions of the MSG. Mr. Mussenden charged the Communications and Outreach Subcommittee's with their approved implementation plan and confirmed and confirmed the unanimous approval of the USEITI candidacy application and noted he would forward it immediately to the Secretary of Interior for approval and submittal to the International Secretariat.

H) Opening of Day 2

Paul Mussenden, acting Designated Federal Officer (DFO) opened the MSG Meeting for Day 2. Participants introduced themselves, including those participating via teleconference. Mr. Field reviewed the agenda for the day and noted that the day would begin with a brief statement from a member of the visiting Libya delegation. Mr. Mussenden introduced Marti Flachs, US State Department.

I) Introduction of the Visiting Libyan Delegation: Beginning of Day 2

Ms. Marti Flachs, US State Department, introduced a visiting group from Libya that is working on transparency issues in the country's oil sector. She thanked the MSG for welcoming the delegation from Libya. The delegation is visiting the US and looking at issues of transparency in oil and gas. They are meeting with various government representatives and have also met with industry and civil society representatives. Ms. Flachs said that one of the highlights of their week has been learning about the EITI process and they are very interested to learn more.

A member of the Libyan delegation made the following comments to the MSG on behalf of his group. "Following the Libyan revolution, we have started a new era and it has a lot of changes. One of the biggest challenges today in Libya is corruption and it presents a big obstacle to development. As you all may know, Libya depends heavily on oil revenues. We are serious to start the process of transparency in Libya and, if we are successful in the Oil Ministry in Libya, we will similarly make advances in anti-corruption and transparency in other government departments. We are here to benefit from your experience and we are sure that we will be going back to Libya with lots of experience that will be useful to us. We and other colleagues in Libya are working hard to see how we can get into the EITI initiative."

Mr. Paul Mussenden, DOI, thanked the Libyan delegation and expressed his appreciation for their joining the MSG meeting.

J) Brainstorming the Role of Reconciler [Independent Administrator] and the Creation of the Report

Mr. Field introduced this topic by noting that the MSG has a number of responsibilities ahead of it as it looks ahead to 2014 and moving forward with its work after the submission of the candidacy application. One of these is to discuss what the key criteria should be for selecting a reconciler [independent administrator]. The MSG proceeded to discuss the criteria and process for selecting an independent administrator. Another responsibility is to think about the nature of the report itself. The following categories summarize different themes that the MSG touched upon as part of their brainstorming.

Independent Administrator

A number of MSG members suggested that the term “reconciler” is too narrow for the type of role and responsibilities that the US MSG has in mind. The scope of the contractor’s work would go far beyond reconciliation of revenue data to include creation of a public sourced narrative, compilation of unilateral reporting, report compilation, etc. As such, the MSG opted in favor of using the term “independent administrator” in lieu of “reconciler.” The MSG also noted “reconciliation” is a function within a country for EITI and funded by that country while “validation” of that reconciliation on a periodic basis is a function of the International and thus funded and implemented via the International Secretariat.

Independence

MSG members discussed the importance of the independent administrator being “independent” and wrestled with how the quality of independence could be described or defined. Some participants suggested that the independent administrator would, ideally, not be an auditor for the government agencies and perhaps the companies represented on the MSG. Participants also noted that this standard may be difficult to meet as most of the large accounting firms do work with extractives companies and with the US government and that, as such, it may be sufficient if the independent administrator can segregate its units that are already providing those services from the unit that works for USEITI. One MSG member suggested that any firm that sits on the US MSG as a member, for instance, could be disqualified. Another member suggested that another disqualification criterion could be any firm that has over a given percentage threshold of revenue from any one company on the MSG (or perhaps being reconciled), with the threshold to be defined by the MSG. One member suggested that, in the wake of the Macondo incident and questions about the independence of DOI, questions would be raised about any bidder that already contracts with the Department of the Interior so the MSG should be cautious in that regard. DOI concurred. One member noted that a broad DOI exclusion might also be too limiting, so it might be best to exclude only firms who have done audit work directly related to ONRR in particular.

Some MSG members suggested that conflicts of interest and other types of internal conflicts would inevitably develop and that the job of the MSG should not be trying to always predict these but rather to evaluate how well bidders are prepared to grapple with and address these

concerns and concerns as they arise. One member noted that a firewall between different units of a company is difficult to fully trust in and, as such, it might be better to have different firms working on different portions of the reporting. Some members of the industry sector took the opposite perspective and posited that the large, professional auditing and consulting firms are set up to promise integrity and to avoid conflicts of interest.

MSG members also noted the difference between actual conflicts of interest and perceived conflicts of interest. They noted that avoiding both types is important for the credibility of USEITI. Some participants suggested that the real issue is not that independence needs to be managed, but that the working of USEITI and of the independent administrator all needs to be very transparent. One member suggested that whether the MSG would need to approve the final report created by the independent administrator would also affect the level of independence that the MSG would need. Ms. Flachs affirmed that the MSG would need to approve the report.

Another member suggested that strong scientific standards, in terms of peer review, should be included. This member also suggested trying to align the publishing of EITI reports with other open-government reports to give EITI greater visibility. A member asked if State could provide a list of contracts various EITI countries have used for this kind of work.

In conclusion, the MSG identified the following draft guidance for independence of the independent administrator (IA) and related conflicts of interest issues to be taken up by the subcommittee that will work on the bidding/procurement approach.

- Complete independence highly unlikely given expertise needed;
- Conflict of interest can and must be managed, both perceived and actual;
- How firms will handle such conflicts can be asked in RFP and interviews;
- A range of firms/organizations should be able to apply, from single firms to consortia, and academics/non-profits;
- There are only a few bright line tests, but should probably include:
 - The IA does not nor will not sit on MSG as member or alternate;
 - The IA's revenues earned for work done for any one individual MSG member or company that might be reconciled does not exceed some amount/percentage of their total revenue; and,
 - The IA does not audit work directly related to or for DOI's Office of Natural Resource Revenue (ONRR).

➤ **Action Item: State will seek to provide the MSG with a list of contractors with whom various EITI countries have worked.**

Sectoral and Substantive Experience

MSG members articulated that an independent administrator should have experience in working with oil, gas, and mining companies, with US government agencies, and with SEC reporting. Some MSG members also noted that the independent administrator should be able to perform the reconciliation function, while some also noted that, due to the breadth of the reporting and diversity of tasks, reconciliation should not be the primary qualification under consideration. MSG members also highlighted the importance of social science capacity, particularly considering the importance of the publicly sourced narrative for the US report.

Some MSG members suggested that there might be a tradeoff between bidders that have experience in the industry and with the federal government, as well as the scale to take on a project of this size, on the one hand, and the level of independence and focus on communication, on the other hand.

IT Expertise

MSG members stated that an independent administrator should have various different types of information technology expertise, including interfacing with reporting from industry that is increasingly in electronic formats and web design expertise and website management capacity, or, at least be able to interface effectively with Interior on these matters.

Communications

MSG members articulated the importance of the independent administrator having strong communication skills of various sorts. The independent administrator would need to communicate well with companies to encourage them to comply with EITI, as reporting under the program would be voluntary. The independent administrator would also need to have strong writing skills and communication skills to ensure the reports or publicly accessible and digestible in various formats.

Assembling a Team

MSG members noted that, due to both the scope of the work and the diversity of skills and qualities that will be required, the independent administrator role might likely have to be filled by a team or a consortium, not necessarily just one firm or organization. One member suggested that, since some members of the civil society sector would like the publicly sourced narrative to be a robust and a separate document from the reconciled report, it might be good to have different contractors for these different components. Some members suggested that there are firms that have the capacity to do both reconciliation and produce a robust publicly sourced narrative and that there would be advantages to having one firm do both parts of the report in terms of making the entire USEITI report a coherent whole. Some suggested that the MSG look beyond commercial firms, and that a nonprofit or a group of academics, such as those that put together the State of the USA report, could also be engaged.

Terms of Reference and the Bidding Process

A member noted that writing a tight Terms of Reference (TOR) would be to the benefit of the MSG. In some other EITI countries, the independent administrator went beyond the agreed-upon scope of the MSG, which then created a management burden for the MSG. MSG members asked for a sample TOR template and Ms. Flachs provided one from after the International Board updated the EITI rules and guidelines.

Some MSG members suggested writing options into the TOR or contract by which the MSG would be able to exercise an option to commission a second report if the first one is well done to bring consistency and continuity to the work.

MSG members discussed various options and structures for the bidding process, including having Requests for Qualifications (RFQs), Requests for Proposals (RFPs), different types of

pre-bidding processes, conducting interviews with bidders, holding information sessions or otherwise allowing bidders to ask questions, etc. MSG members suggested that it could be beneficial to provide bidders sufficient lead-time to consider what they could offer as they may think of options that the MSG has not considered. Mr. Goldwyn, given his experience in Nigeria, emphasized the importance of flexibility in the bidding process, citing the various unknowns and unexpected circumstances that emerged in Nigeria's bidding process. He explained that the Nigeria MSG chose a consortium led by the Hart Group because they presented the best qualifications for the diverse skillsets needed, including web design and communications, and because they presented the most robust plan to promote independence. The Nigerian MSG used a five-criteria matrix as part of its decision-making process.

MSG members noted that actually putting out a solicitation speaking with bidders could give the MSG a much better idea of the types of capacities and skills that are on offer and may give the MSG a better idea of how to proceed.

Summary of Desired Qualifications

In concluding this brainstorming, the MSG summarized the key qualifications likely sought in the IA.

Skills and Characteristics	Experience
<ul style="list-style-type: none"> • Independent (see discussion above) • Strong verbal and written communication skills • IT sophistication • Strong project management skills • Strong data management • Quality personnel • Reconciliation/auditing competence 	<ul style="list-style-type: none"> • With EITI • In gas, oil, mining • In managing and compiling multiple data sources efficiently, including government data • Working with or for large groups or consortiums • Communicating complex information for and to the public

- **Action Item: Mr. Goldwyn will share the five-criteria matrix used by the Nigerian MSG with the US MSG.**

Procurement

In response to questions about how contracting would work under federal procurement policies, Mr. Gould responded that he would need to confer with DOI's procurement staff, who could also speak to the MSG about its options. Participants discussed which parties generally pay for the reporting functions of EITI. Mr. Gould explained that the independent administrator function would be paid through the US government and that the validator would be paid for by the International Secretariat. Participants discussed whether there may be other options of paying for the independent administrator function, considering the government's constrained budget, but generally agreed to proceed on the assumption that the government would pay, with that assumption to be revisited if need be.

- **Action Item: DOI will consult with procurement staff regarding the process of contracting with an independent administrator.**

Creation of the Report

Mr. Gould said that, based on presentations by the International Secretariat in Colombia, the report should be on the concise side, and it makes sense to include links to data and information that are published elsewhere. Mr. Romig responded that, while he agrees on the importance of brevity, the report should also be easily readable for a lay audience, with abbreviations and acronyms defined and context provided.

Scope of the Report

Mr. Gould reiterated that based on the presentations by the International Secretariat in Colombia that the scope of the report should be focused on revenue information. One member responded that the publicly sourced narrative will have all kinds of data that are not solely having to do with revenues and that the Trinidad report, for example, includes information about jobs and about subsidies. Another member added that public comments received, state-level research, and other content that has already been part of the process should be included in the reporting.

Editing of the Report

MSG members discussed how significantly they would be involved in editing the final report that is produced by the independent administrator. Some participants suggested that the contractor should stand behind its report and that MSG members should not be involved in editing, while other MSG members expressed significant interest in editing and contributing to the report, particularly the publicly sourced narrative. One member suggested a hybrid model that allowed for some MSG involvement without line editing of the entire document.

K) Potential Timeline for, and Transitioning to, 2014

Mr. Greg Gould, DOI, summarized both the overall USEITI timeline as well as a proposed 2014 USEITI MSG work plan. Please see the slides from Mr. Gould's presentation for additional detail at the following URL: <http://www.doi.gov/eiti/FACA/upload/USEITI-MSG-2014-HL-Timeline-12122013.pdf>.

The overall USEITI timeline includes:

- December 2013: Application Submitted
- March 2014: Candidacy Approved
- December 2014: DOI Online Data Pilot
- December 2015: Publish 1st USEITI Report
- December 2016: Publish 2nd USEITI Report

Ms. Kohler noted that the 1st and 2nd USEITI reports are actually due to the International Secretariat in March 2016 and March 2017 but that the December dates are provided to provide the MSG sufficient lead time to prepare for submission.

The proposed 2014 USEITI MSG work plan includes:

- April 2014, USEITI MSG Meeting #1:
 - Draft TOR/SOW for the Reconciler

- June 2014, USEITI MSG Meeting #2:
 - Opt-In Process for States & Tribes
 - TOR/SOW to Procure Reconciler
- September 2014, USEITI MSG Meeting #3:
 - DOI to Hire Reconciler
 - Reporting Template
- November 2014, USEITI MSG Meeting #4:
 - Work-Plan to Meet all EITI Requirements
 - 2015 Planning

Mr. Gould noted that a significant amount of work would have to be done to draft the Terms of Reference / Statement of Work (TOW/SOW) for the Independent Administrator before the April 2014 MSG meeting, after which the MSG would meet three other times in 2014. Ms. Kohler emphasized that reducing the number of MSG meetings means that the subcommittees will have to do more work between the meetings.

In response to a question from Ms. Kohler, Mr. Gould explained that the DOI Online Data Pilot would include, at minimum, ONRR data. ONRR would use the Data Pilot as an opportunity to show other DOI agencies, as well as other federal departments, what it can report on and how it is intending to conduct reporting for EITI.

Both members of the government sector and members of the industry sector articulated the significant burden that their organizations would undergo to shift their reporting calendars in order to bring them into alignment with those of the other sector. The government's fiscal year runs from October to September, while many companies run on a calendar year. Mr. Padilla emphasize the urgency of making this decision as companies are currently changing how they collect and record data to bring their systems into compliance with the Dodd-Frank Act. Mr. Harrington offered to check in with American Petroleum Institute members about this issue, and Ms. Susan Ginsberg offered to check in with Independent Petroleum Association of America members about this issue.

Mr. Bob Reynolds, BP America, and Ms. Kohler requested that the timeline slide be updated to include the time periods that would be included in each report listed on the slide and that each date be prefaced with either "C" (for calendar year) or "FY" (for fiscal year) to indicate which period is being specified. It was noted that the SEC typically allows reporting based on the company's reporting year, not the US governments.

Mr. LeVine suggested that the MSG needs to decide on the composition of the report, which subsequently needs to be specified in the Terms of Reference (TOR). Mr. Gould suggested that the Application Subcommittee could work on deciding this. Ms. Brian suggested that two different groups of MSG members could be working in parallel, one group on the TOR and another on an outline for a report.

Mr. Harrington added that the MSG would also need to resolve the issue of tax reporting sometime in 2014, and Mr. LeVine added that project-level reporting would also need to be resolved.

Ms. Kohler suggested that the membership of the subcommittees be reopened to accommodate the work anticipated in 2014. Mr. Gould responded that, as long as the subcommittees are delegated tasks by the MSG, these subcommittees could bring in additional people, experts, etc. to work on issues as needed. The sector co-chairs agreed to work within their sectors to decide on the additional staffing for the current Application Committee.

MSG members also discussed whether a new subcommittee should be created to handle the drafting of the TOR/SOW. While MSG members agreed that a subcommittee to focus on procurement and related issues might be needed once the US candidacy application is approved, the Application Subcommittee will continue to exist until the US candidacy application is approved (which is projected to happen in March 2014). As such, the application subcommittee can work on gathering data about the various items on its task list (Terms of Reference, outline of report, next steps for hiring and procurement, and how quickly the reporting-year question needs to be resolved) and giving reports about these items at the next MSG meeting such that the MSG can move these various items forward.

- **Decision: The MSG tasked the Application Subcommittee to undertake work on developing a draft Terms of Reference, outlining the first USEITI report, considering next steps for procurement for an independent administrator, and considering needed timeline for report-year question at least until the US candidacy application is approved.**

MSG members discussed options for staffing the MSG in the coming year, with the government sector noting that the federal government continues to operate under significant funding constraints under the sequester. Participants discussed the idea of designating a dedicated liaison from each sector to coordinate EITI activities and responsibilities. The industry sector expressed its concern allocating a staff person to be dedicated fulltime to EITI work, indicating that it is the government's responsibility to staff the initiative. Both the industry sector and the civil society sector agreed to designate a person who can work on specific tasks for which the government needs a liaison to the other sectors.

Participants briefly discussed potential outreach to tribes and producers in 2014. Ms. Brian indicated that the Outreach Subcommittee would explore effective outreach strategies to tribes to supplement DOI's Dear Tribal Leader letters. Ms. Ginsberg requested that information be communicated to producers about the pending EITI reporting guidelines. The Outreach Subcommittee agreed to try and find a way to examine the list of companies (approximately 40 or 50) that would be included in the first-year reporting materiality threshold to see if any of the oil and gas producers are not members of API or IPAA and, if so, reach out to these firms directly.

- **Action Item: DOI to update the timeline slide to include the time periods that would be included in each report listed on the slide and that each date be prefaced with either "C" (for calendar year) or "FY" (for fiscal year) to indicate which period is being specified.**

- **Action Item: Mr. John Harrington to check in with American Petroleum Institute members about the urgency of resolving the reporting calendar issue.**
- **Action Item: Ms. Susan Ginsberg to check in with Independent Petroleum Association of America members about the urgency of resolving the reporting calendar issue.**
- **Action Item: Sector co-chairs work within their sectors to decide on supplementing staffing of the Application Subcommittee.**
- **Action Item: Outreach Subcommittee will explore effective outreach strategies to tribes to supplement DOI's Dear Tribal Leader letters.**
- **Action Item: Outreach Subcommittee will consider how one might reach out to companies under the first-year reporting materiality threshold who are not members of API or IPAA.**

L) Summary of Day 2

At the end of Day 2, Paul Mussenden, Designated Federal Officer, summarized the day and confirmed a decision of the MSG. Mr. Mussenden charged the Application Subcommittee to undertake work on developing a draft Terms of Reference, outlining the first USEITI report, considering next steps for procurement for an independent administrator, and considering needed timeline for report-year question at least until the US candidacy application is approved. Mr. Mussenden then officially adjourned the MSG December meeting.

IV. Public Comment

There were no public comments made during this meeting.

V. Meeting Participants

The following is a list of attendees from the December 11-12, 2013 EITI meeting.

Chaired by Paul Mussenden, alternate Designated Federal Officer for the USEITI Advisory Committee, U.S. Department of the Interior

Participating Committee Members

Civil Society

Danielle Brian, Project on Government Oversight, USEITI MSG Advisory Committee Co-chair
 Paul Bugala, Calvert Investments
 Michael LeVine, Oceana
 Keith Romig, Jr, United Steelworkers
 Veronica Slajer, North Star Group

Government

Mitchell Baer, Department of Energy
 Curtis Carlson, Department of Treasury
 Greg Conrad, Interstate Mining Compact Commission
 Greg Gould, Department of the Interior
 C. Michael Smith, Interstate Oil and Gas Compact Commission

Industry

Chris Chambers, Freeport-McMoRan Copper & Gold Inc.
Nick Cotts, Newmont Mining Corporation
Mike Flannigan, Peabody Energy
Susan Ginsberg, Independent Petroleum Association of America
Veronika Kohler, National Mining Association, USEITI MSG Advisory Committee Co-chair
Aaron Padilla, Chevron Corporation
Robert Reynolds, BP America
James Roman, ConocoPhillips
Brent Roper, Rio Tinto

Committee Alternates in Attendance

Civil Society

David Goldwyn, Goldwyn Global Strategies, LLC
Laura Sherman, Transparency International - USA

Government

Blair Mersinger, U.S. Department of Energy

Industry

Chris Chambers, Freeport-McMoRan Copper & Gold Inc.
John Harrington, Exxon Mobil Corporation
Amanda Lawson, Walter Energy Inc.
Walter Retzsch, American Petroleum Institute
John Sardar, Noble Energy Inc.
Robert Wilkinson, ConocoPhillips

Government and Members of the Public in Attendance

Tawny Bridgeford, National Mining Association
Neil Brown, Goldwyn Global Strategies
Bob Cekuta, Department of State
Jeff Collins, Chevron Corporation
Ryan Ellis, Interstate Mining Compact Commission
Marti Flacks, Department of State
Rebecca Hummel, Chevron
Emily Kennedy, American Petroleum Institute
Charles Norfleet, Bureau of Ocean Energy Management
Christopher Phalen, Rio Tinto
Jennifer Rosete-Busby, Publish What You Pay
Misty Seemans, Publish What You Pay
Karen Senhadji, Department of Interior
Mia Steinle, Project on Government Oversight
Katie Sweeney, National Mining Association
Suzanne Swink, BP America
Lance Wenger, Interior Department
Cassandra Water, AFL-CIO

Judy Wilson, Bureau of Indian Affairs

Facilitation Team

Pat Field, Consensus Building Institute

Tushar Kansal, Consensus Building Institute

Rachel Milner Gillers, Consensus Building Institute

VI. Documents Distributed

- Agenda ([PDF](#))
- [USEITI 2014 Workplan Timeline](#)
- [USEITI Application Review Presentation](#)
- [USEITI Outreach and Communications Memo](#)
- [USEITI Candidacy Application- Subcommittee Recommendation](#)
- [USEITI Candidacy Application - MSG Approved](#)
- [May 1-2, 2013 Meeting Minutes](#) - Draft
- [June 12-13, 2013 Meeting Minutes](#) - Draft
- [July 23-24, 2013 Meeting Minutes](#) - Draft
- [September 10, 2013 Meeting Minutes](#) - Draft
- [November 5-6, 2013 Meeting Minutes](#) - Draft
- FR Notice ([PDF](#))

VII. Certification

Interested parties are asked to contact USEITI at useiti@ios.doi.gov or 202-208-0272 with any questions, comments, or concerns regarding the content of this meeting summary.